

Assembly Bill No. 2787

CHAPTER 726

An act to amend Section 51.2 of the Civil Code, to add Section 17959 to the Health and Safety Code, and to add Section 9105.1 to the Welfare and Institutions Code, relating to building standards.

[Approved by Governor September 20, 2002. Filed
with Secretary of State September 20, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2787, Aroner. Building standards: universal design.

Existing law presumes that a housing development for senior citizens constructed on or after January 1, 2001, is designed to meet the physical and social needs of senior citizens for purposes of meeting existing laws regarding age discrimination in housing if the housing development includes specified elements.

Existing law also encourages developers of these housing developments to implement in their construction the principles of universal design or any other design guidelines for home modifications for seniors that may be promulgated by the California Department of Aging.

This bill would, instead, by December 31, 2003, require the Department of Housing and Community Development, in consultation with specified state agencies, and without significantly impacting housing cost and affordability, to develop guidelines and at least one model ordinance for new construction and home modifications that are consistent with particular principles of universal design or other similar design guidelines, as specified.

Under the existing State Housing Law the California Building Standards Code applies to any city or county that does not amend, add, or repeal ordinances or regulations that impose the same requirements as the code, except that the law authorizes a city or county to make changes or modifications as it determines are reasonably necessary because of local climatic, geological, or topographical conditions if the findings of reasonable necessity and the modification or change are filed with the California Building Standards Commission.

The bill would authorize, commencing January 1, 2005, a city, county, or city and county to make, by ordinance, changes or modifications to the requirements of the code if the city, county, or city and county determines that the ordinance is reasonably necessary and is

substantially the same as the guidelines or model ordinance prepared by the department pursuant to the bill.

The bill would encourage developers of housing for senior citizens, persons with disabilities, and other persons and families, in a city or county where a universal design ordinance has not been adopted, to seek information regarding the principles of universal design, as specified.

The bill would authorize the California Department of Aging, in partnership with specified entities, to develop and provide consumer advice regarding home modification for seniors and persons with disabilities.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows:

(a) California's population is aging, and most aging persons prefer to stay in their homes and neighborhoods as long as possible. In addition, many households share their homes with parents, children, spouses, and other household members who have a range of temporary or permanent mobility disabilities. For all of these persons, the social and financial costs of residential care settings often are excessive and impose additional costs for government assistance programs.

(b) Many California households are seeking to have their homes constructed or modified to allow for full life cycle use, available for visits or residence by parents, grandparents, and others who have difficulty entering or using these homes due to barriers resulting from traditional construction standards. Adding home modifications after construction far exceeds the cost of including barrier-free standards at the time of construction and often results in temporary displacement until modifications are complete.

(c) Many government and private entities have considered adoption of the principles of universal design to allow for inclusive use of homes. Universal design has several major components: designing products so that they are flexible enough that they can be used by people with a wide range of abilities and circumstances, and designing homes and appliances so that they are compatible with assistive technologies that might be used by those who cannot efficiently use the products directly. Universal design options include, but are not limited to, zero-step entries based on site grading or ramps, wider doorways and doors with lever handles, bathrooms amenable to the addition of assistive facilities, safe passageways and work areas, and use of appropriately installed switches and receptacles, counters, and appliances.

(d) The costs of construction or home modifications using the principles of universal design are increased by inadequate knowledge of



the options, benefits, and opportunities, and the lack of consistent standards throughout a jurisdiction or the state. Local governments do not have authority to enact ordinances regulating universal design standards for residences under current state laws.

(e) The development and dissemination of guidelines and model statewide ordinances, and the authority for enactment of these model ordinances by local governments, will provide a variety of social and financial cost benefits to individuals and government agencies serving persons who are aging or frail. They also will maintain building code consistency, and encourage the development of new appliances and assistive devices that encourage inclusive use of homes. They also will permit persons who are aging or frail to remain with their families, in their own homes, for longer periods by encouraging increased development and modification of homes with barrier-free access and use.

SEC. 2. Section 51.2 of the Civil Code is amended to read:

51.2. (a) Section 51 shall be construed to prohibit a business establishment from discriminating in the sale or rental of housing based upon age. Where accommodations are designed to meet the physical and social needs of senior citizens, a business establishment may establish and preserve that housing for senior citizens, pursuant to Section 51.3, except housing as to which Section 51.3 is preempted by the prohibition in the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and implementing regulations against discrimination on the basis of familial status. For accommodations constructed before February 8, 1982, that meet all the criteria for senior citizen housing specified in Section 51.3, a business establishment may establish and preserve that housing development for senior citizens without the housing development being designed to meet physical and social needs of senior citizens.

(b) This section is intended to clarify the holdings in *Marina Point, Ltd. v. Wolfson* (1982) 30 Cal. 3d 72 and *O'Connor v. Village Green Owners Association* (1983) 33 Cal. 3d 790.

(c) This section shall not apply to the County of Riverside.

(d) A housing development for senior citizens constructed on or after January 1, 2001, shall be presumed to be designed to meet the physical and social needs of senior citizens if it includes all of the following elements:

(1) Entryways, walkways, and hallways in the common areas of the development, and doorways and paths of access to and within the housing units, shall be as wide as required by current laws applicable to new multifamily housing construction for provision of access to persons using a standard-width wheelchair.



(2) Walkways and hallways in the common areas of the development shall be equipped with standard height railings or grab bars to assist persons who have difficulty with walking.

(3) Walkways and hallways in the common areas shall have lighting conditions which are of sufficient brightness to assist persons who have difficulty seeing.

(4) Access to all common areas and housing units within the development shall be provided without use of stairs, either by means of an elevator or sloped walking ramps.

(5) The development shall be designed to encourage social contact by providing at least one common room and at least some common open space.

(6) Refuse collection shall be provided in a manner that requires a minimum of physical exertion by residents.

(7) The development shall comply with all other applicable requirements for access and design imposed by law, including, but not limited to, the Fair Housing Act (42 U.S.C. Sec. 3601 et seq.), the Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.), and the regulations promulgated at Title 24 of the California Code of Regulations that relate to access for persons with disabilities or handicaps. Nothing in this section shall be construed to limit or reduce any right or obligation applicable under those laws.

SEC. 3. Section 17959 is added to the Health and Safety Code, to read:

17959. (a) No later than December 31, 2003, the department shall consider proposed universal design guidelines for home construction or home modifications which may be submitted by the California Department of Aging, the California Commission on Aging, the Department of Rehabilitation, the office of the State Architect of the Department of General Services, the office of the State Fire Marshal, the California Building Standards Commission, or other state departments. Thereafter, the department, without significantly impacting housing cost and affordability, shall, in consultation with these agencies, develop guidelines and at least one model ordinance for new construction and home modifications that is consistent with the principles of universal design as promulgated by the Center for Universal Design at North Carolina State University or other similar design guidelines that enhance the full life cycle use of housing without regard to the physical abilities or disabilities of a home's occupants or guests in order to accommodate a wide range of individual preferences and functional abilities. In developing these guidelines and model ordinances, the department also shall meet with, and solicit information from, individuals and organizations representing individuals and entities with interests in



construction, local governments, the health and welfare of senior citizens and persons with disabilities, architects, and others with expertise in these design and living issues. The department shall ensure that at least three meetings subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of the Government Code) shall occur, that shall include opportunities for government agencies, individuals, and organizations identified in this subdivision to participate and comment on proposed guidelines or draft model ordinances.

(b) (1) In addition to the authority granted by Sections 17958.5 and 18941.5, and for the purposes of this section, a city, county, or city and county may, by ordinance, make changes or modifications in addition to or in excess of the requirements contained in the California Building Standards Code adopted pursuant to Sections 17922 and 18928 if the city, county, or city and county makes a finding that the changes and modifications are reasonably necessary and are substantially the same as the guidelines or model ordinances adopted pursuant to subdivision (a). In no case shall the changes or modifications be less restrictive than the requirements published in the California Building Standards Code.

(2) A city, county, or city and county adopting an ordinance pursuant to this subdivision shall file a copy of the ordinance and the findings with the department. No such ordinance shall become effective or operative for any purpose until the findings and the ordinance have been filed with the department. The department may review the findings and each ordinance to evaluate their consistency with this subdivision, and shall provide written comments to the adopting entity as to any such evaluation.

(c) (1) In a city, county, or city and county where a universal design ordinance has not been adopted pursuant to subdivision (b), developers of housing for senior citizens, persons with disabilities, and other persons and families are encouraged, but not required, to seek information and assistance from the department and the California Department of Aging regarding the principles of universal design specified in subdivision (a) and consider those principles in their construction.

(2) The department, the California Department of Aging, and any other interested state agency also may, to the extent feasible, disseminate information to interested persons and entities in all parts of the state regarding the principles of universal design and their relationship to new construction and home modifications.

(d) Subdivision (b) shall become operative on January 1, 2005.

SEC. 4. Section 9105.1 is added to the Welfare and Institutions Code, to read:



9105.1. The department, in partnership with the area agencies on aging, the Department of Rehabilitation, any independent living centers, any contractor selected to implement the federal Assistive Technology Act of 1998 (Public Law 105-394), and any organization that serves seniors and persons with disabilities, may develop and provide consumer advice regarding home modification for seniors and persons with disabilities.

